

EI-18735

Eagle Pass RR -- FD 35554

Coburn, David

to:

Vicki Rutson (RutsonV@stb.dot.gov)

09/23/2011 01:11 PM

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Follow Up:
Normal Priority.

1 Attachment



Eagle Pass Railroad.pdf

Vicki – As per our conversation, here is the 6 month waiver letter for Eagle Pass RR. I look forward to your thoughts. I will be contacting the Office of Proceedings to alert them to this project as well, and we will also be communicating with the Coast Guard, DHS and other federal and state agencies, as well as providing an update to DOS. As you know, DOS would like to defer to the STB on the lead agency question.

I will also be forwarding a draft consultation letter to you.

Regards. David

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September 23, 2011

VIA EMAIL

Ms. Victoria Rutson
Office of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423

**Re: Finance Docket No. 35554, Proposed International Rail Line Construction in
Maverick County, Texas—Request for Waiver of Six-Month Pre-filing
Notice**

Dear Ms. Rutson:

We are writing to notify the Office of Environmental Analysis (OEA) of the intent of the Eagle Pass Railroad ("EPRR") to construct and operate a new international rail line in Maverick County, Texas. The proposed rail line will be built between an existing Union Pacific rail line near Eagle Pass, TX and a point near Piedras Negras, Coahuila, Mexico, where it will connect with a Mexican rail line to be constructed, which will in turn be designed to connect with the Mexican rail network. Under 49 U.S.C. § 10502, EPRR intends to seek an exemption from the requirements of 49 U.S.C. § 10901 to construct and operate the new line. A map showing the current proposed route for the line is attached.

Pursuant to 49 C.F.R. § 1105.10(c), EPRR hereby respectfully requests that the Board waive the six-month pre-filing notice requirement of 49 C.F.R. § 1105.10(a)(1). The six-month notice period may be waived "where appropriate." 49 C.F.R. § 1105.10(c). To the extent that 49 C.F.R. § 1105.10(a) might be read to apply to the proposed action, EPRR hereby requests a waiver of the requirement at 49 C.F.R. § 1105.10(a)(1) that an applicant consult with OEA at least 6 months prior to the filing of a petition for an exemption from 49 U.S.C. § 10901 to construct and operate a rail line if the proposed construction would require preparation of an Environmental Impact Statement. We believe that the six-month pre-notification period is not needed with respect to this project for several reasons.

First, EPRR's San Antonio-based contractors (the environmental consulting firm of Poznecki-Camarillo, Inc.) are currently in the process of preparing substantial engineering and environmental data for presentation to OEA on the EPRR line. The information and analysis will be presented in an Environmental Report consistent with the Board's rules at 49 CFR § 1105.7. It is anticipated that that Report would serve as the foundation for an appropriate environmental document that could be prepared and issued by the STB, with the assistance of a third-party contractor, in satisfaction of the STB's NEPA obligations. In the course of preparing this Report, EPRR's consultants have contacted or will shortly be contacting the interested federal, state and local agencies, all of which are now, or shortly will be, aware of this project. Further, there has also been some degree of outreach to the local community about the rail project. Thus, to the extent that the six month notice period is designed to allow for an opportunity to provide public notice, such notice has been provided.

Second, in light of the overall project schedule, a six-month delay would needlessly impede the progress of this important international project. In that regard, EPRR hopes to be in a position to present an environmental report to the STB in the next several months, prior to the expiration of a 6 month notice period. EPRR hopes to have all of its permits in order to enable construction to begin in 2013, and have the line operable in 2014. Thus, it is important that environmental review not be unnecessarily delayed.

The purpose of the proposed EPRR is to increase rail line capacity between Eagle Pass, TX and the State of Coahuila, Mexico. Specifically, the railroad will meet the need to transport coal from a mine to be developed near Eagle Pass, at a point at or near the planned northern terminus of the EPRR line, to points in Mexico where the coal would be used to generate power. That coal mine is known as the Dos Republicas mine and will be operated by Dos Republicas Coal Partnership (DRCP). DRCP will be the owner of EPRR.

In addition, EPRR has identified a need for rail transport of raw materials necessary for Mexico's metallurgical industry from the United States to Mexico, as well as a need to transport beer and beer related products from a new brewery in northern Mexico to the United States. The EPRR would intersect with the Union Pacific line at a point north of Eagle Pass.

Current route alternatives for the proposed project vary in length from approximately 4 to 8 miles. The southern terminus of the proposed project would connect to a new rail line in Mexico near Mexico Highway 57. In the United States, the rail line would run north of the Eagle Pass city center, and cross the US 277. The northern terminus of the proposed project would connect to the existing UP line near the Dos Republicas mine.

At this time, EPRR is not aware of any significant environmental impacts associated with its proposal. However, environmental review is continuing. The line would cross mostly rangeland and agricultural land in the United States. In addition, the proposed EPRR line also requires the construction of an international rail bridge. Currently, the Eagle Pass-Piedras Negras International Railway Bridge is the only international rail bridge that crosses the U.S.-Mexico border (demarcated by the Rio Grande River) between the cities of Eagle Pass, TX and

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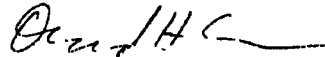
Piedras Negras, Coahuila. That bridge is owned and operated by Union Pacific and Grupo Transportation Ferroviaria Mexicana. The EPRR will require the construction of an additional bridge across the Rio Grande north of the Eagle Pass and Piedras Negras city centers.

As you know, EPRR recognizes that it will require a Presidential Permit to be issued by the U.S. Department of State (State Department) pursuant to that Department's authority to issue such permits under applicable executive orders and statutes. EPRR representatives have been in preliminary discussions with the State Department regarding its issuance of a Presidential Permit for the project and understand that the State Department will choose to be a cooperating agency relative to the environmental review of the rail line. Other agencies, including the U.S. Coast Guard and U.S. Army Corps of Engineers, also have permitting authority and may wish to participate as cooperating agencies as well.

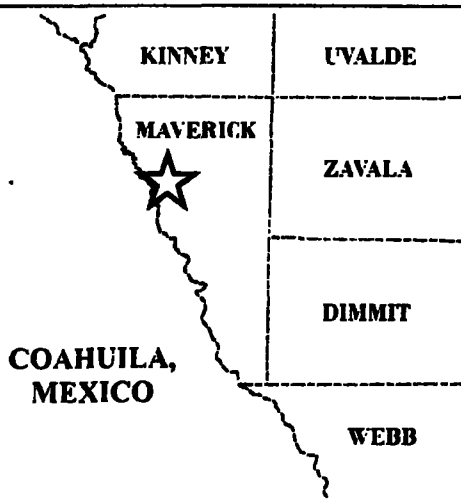
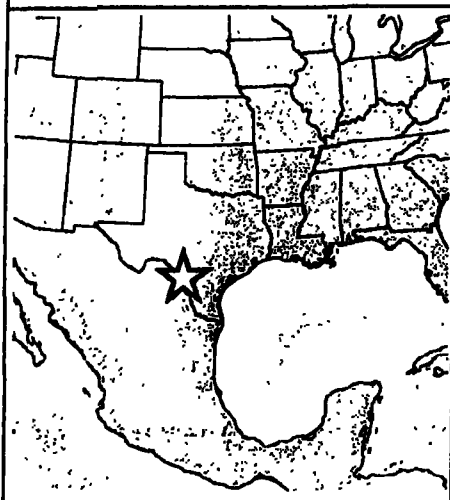
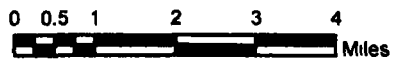
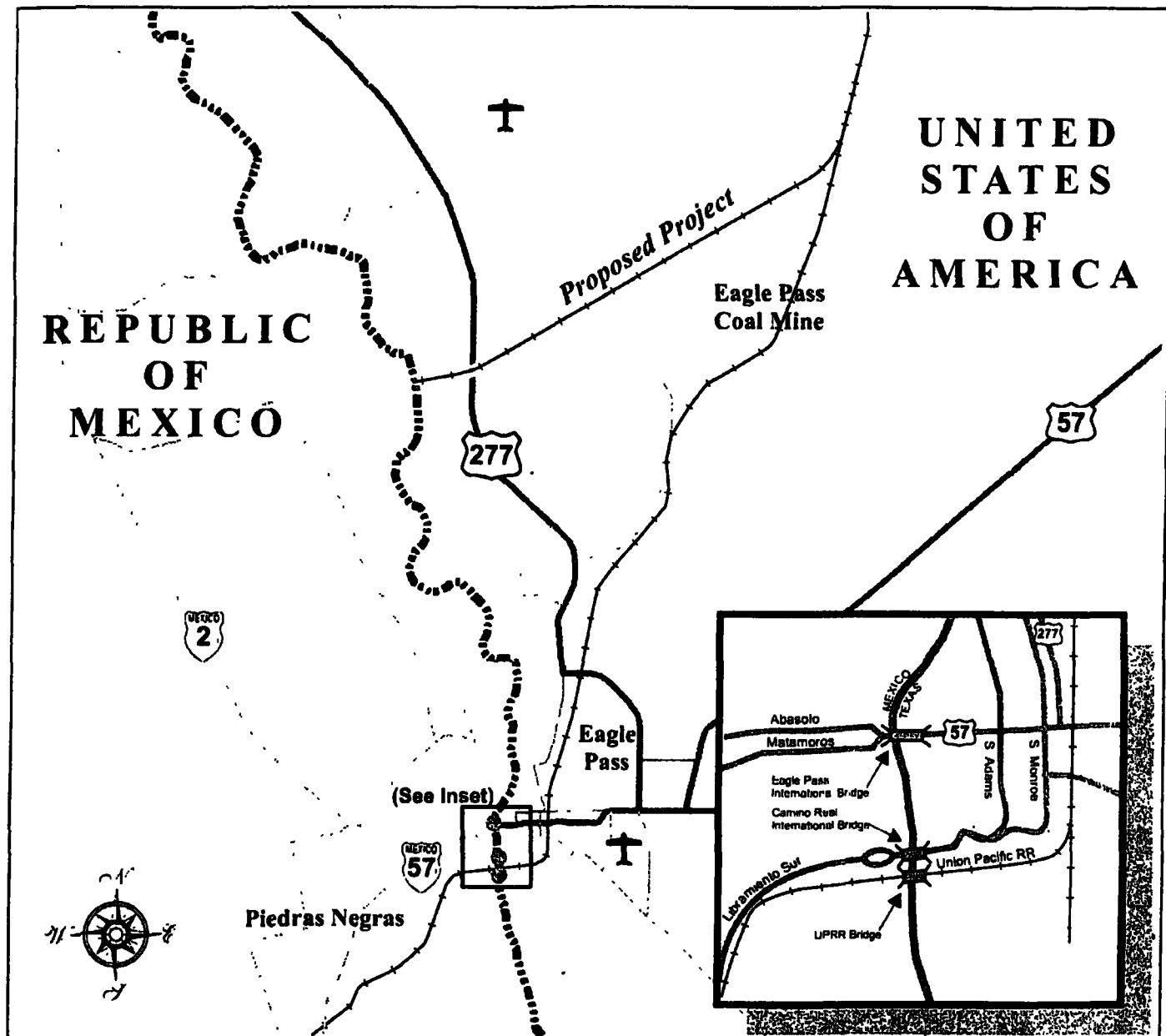
Finally, EPRR intends, as noted above, to submit to OEA an Environmental Report detailing all of the information it has gathered on the environmental implications of the EPRR project. In addition, after the Environmental Report is submitted, EPRR is prepared to retain, on behalf of the STB, a third party environmental contractor to work with the STB and EPRR in preparing environmental documentation, as provided in the Board's rules implementing NEPA at 49 CFR § 1105.10(d). EPRR is also prepared to enter an appropriate three-party MOU with respect to that contractor.

Please let me know if you have any questions. We look forward to your waiver determination and greatly appreciate your assistance in that regard. We also look forward to working with you on this project.

Sincerely,



David H. Coburn
Attorney for Eagle Pass Railroad



VICINITY MAP

NEW LOCATION FREIGHT RAILROAD
& INTERNATIONAL BRIDGE

MAVERICK COUNTY, TEXAS

POZNECKI
INC
CAMARILLO
ENGINEERING & SURVEYING